

Congress of the United States
Washington, DC 20515

November 9, 2019

The Honorable Adam Schiff
Chairman
Permanent Select Committee on Intelligence
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Schiff:

In March 2019, prior to unilaterally initiating an “impeachment inquiry” in the House of Representatives, Speaker Pelosi said that “impeachment is so divisive to the country that unless there’s something so compelling and overwhelming and bipartisan, I don’t think we should go down that path because it divides the country.”¹ Today, eight months after Speaker Pelosi’s statement, there is bipartisan opposition in the House of Representatives to pursuing impeachment.² Undeterred, Speaker Pelosi and you now plan to move your one-sided and purely political “impeachment inquiry” from behind closed doors to open hearings next week.

Speaker Pelosi promised the “impeachment inquiry” would “treat the President with fairness.”³ You have failed to honor the Speaker’s promise. During the Committee’s last open hearing, you fabricated evidence out of thin air to portray President Trump’s telephone conversation with President Zelensky in a sinister light.⁴ During your closed-door proceedings, you offered no due process protections for the President. You directed witnesses called by the Democrats not to answer Republican questions. You withheld deposition transcripts from Republican Members. You selectively leaked cherry-picked information to paint misleading public narratives about the facts. You misled the American people about your interactions with the anonymous whistleblower, earning you “Four Pinocchios” from the *Washington Post*.⁵ Your actions have greatly damaged the integrity of the Intelligence Committee and any legitimacy of your “impeachment inquiry.”

Americans see through this sham impeachment process, despite the Democrats’ efforts to retroactively legitimize it last week. The resolution that Democrats passed last week—over bipartisan opposition—limits the rights of minority Members beyond those prescribed in the House Rules and prevents minority Members from fully and fairly participating in the proceedings. While in traditional hearings the minority is permitted the ability to call a witness, the resolution only allows minority Members to suggest a witness list and requires them to

¹ Nicholas Fandos, *Impeaching Trump Is ‘Not Worth It,’ Nancy Pelosi Says*, N.Y. Times, Mar. 11, 2019.

² H. Res. 660, 116th Cong. (2019) (roll call vote 604).

³ Speaker Nancy Pelosi, Transcript of Pelosi Weekly Press Conference Today (Oct. 2, 2019).

⁴ “Whistleblower Disclosure”: Hearing of the H. Perm. Sel. Comm. on Intelligence, 116th Cong. (2019) (statement of Rep. Adam Schiff, Chairman).

⁵ Glenn Kessler, *Schiff’s false claim his committee had not spoken to the whistleblower*, Wash. Post, Oct. 4, 2019.

provide “a detailed written justification of the relevance of the testimony of each requested witness.”⁶ The minority Members must identify all potential witnesses we wish to call before knowing the number, topics, or scope of hearings you intend to convene.⁷ The Democrats’ impeachment process against President Trump is a drastic departure from bipartisan precedent for presidential impeachment proceedings.

To provide transparency to your otherwise opaque and unfair process, and after consultation with Ranking Member Jim Jordan and Ranking Member Michael McCaul, the American people deserve to hear from the following witnesses in an open setting:

- 1. Devon Archer, former board member of Burisma Holdings.** Multiple Democrat witnesses in closed-door testimony explained that Ukrainian energy company Burisma has a reputation in Ukraine for corruption. Mr. Archer is Hunter Biden’s long-term business partner and served as a board member of Burisma Holdings with Mr. Biden. Mr. Archer’s firsthand experiences with Burisma can assist the American public in understanding the nature and extent of Ukraine’s pervasive corruption, information that bears directly on President Trump’s longstanding and deeply-held skepticism of the country.
- 2. Hunter Biden, former board member of Burisma Holdings.** As stated previously, Burisma has a reputation in Ukraine for corruption. According to public reporting, Burisma recruited Mr. Biden to its board to improve its public image at a time when Mr. Biden’s father, Vice President Joe Biden, was the Obama Administration’s point person for Ukraine policy.⁸ Mr. Biden reportedly received \$50,000 a month for his presence on Burisma’s board.⁹ Deputy Assistant Secretary George Kent testified that he raised concerns in 2015 to Vice President Biden’s office about the appearance of a conflict of interest stemming from Mr. Biden’s position on Burisma’s board. Ambassador Marie Yovanovitch testified that the Obama State Department prepared her to address Mr. Biden’s position on Burisma during her confirmation hearing to be ambassador to Ukraine. As with Mr. Archer, Mr. Biden’s firsthand experiences with Burisma can assist the American public in understanding the nature and extent of Ukraine’s pervasive corruption, information that bears directly on President Trump’s longstanding and deeply-held skepticism of the country.
- 3. Alexandra Chalupa, former Democratic National Committee (DNC) staffer.** During the 2016 U.S. presidential election, Alexandra Chalupa, a former DNC staffer and contractor, worked with the Ukrainian Embassy in Washington, D.C. to try and get political dirt on then-candidate Trump’s campaign.¹⁰ She has admitted to providing anti-

⁶ H. Res. 660, *supra* note 2.

⁷ *Id.*

⁸ Kenneth P. Vogel & Iuliia Mendel, *Biden faces conflicts of interest questions that are being promoted by Trump and allies*, N.Y. Times, May 1, 2019.

⁹ *Id.*

¹⁰ Kenneth P. Vogel & David Stern, *Ukrainian efforts to sabotage Trump backfire*, Politico, January 11, 2017.

Trump dirt to the DNC and the Hillary Clinton campaign, and to discussing such dirt with then-Ukrainian Ambassador to the United States Valeriy Chaly. Given President Trump's documented belief that the Ukrainian government meddled in the 2016 election to oppose his candidacy, which forms the basis for a reasonable desire for Ukraine to investigate the circumstances surrounding the election and any potential Ukrainian involvement, Ms. Chalupa is a prime fact witness who can assist Congress and the American public in better understanding the facts and circumstances surrounding Ukrainian involvement in the 2016 election.

4. **David Hale, Under Secretary of State for Political Affairs.** The three committees interviewed Under Secretary Hale on November 6, 2019. Under Secretary Hale has direct knowledge of U.S. government policy with respect to foreign assistance and foreign assistance review, which is critical to informing the American public's understanding of President Trump's posture on such matters. Given Under Secretary Hale's firsthand knowledge of events preceding and surrounding Ambassador Yovanovitch's recall from Ukraine, as well as Under Secretary Hale's communications with Ambassador Taylor regarding Ukraine matters, the American people deserve to hear from Under Secretary Hale.
5. **Tim Morrison, former Senior Director for European and Russian Affairs on the National Security Council (NSC), to testify on the same panel as Lt. Col. Alexander Vindman, assuming you request Lt. Col. Vindman to testify.** The three committees conducted a deposition of Mr. Morrison on October 31, 2019. You have yet to release Mr. Morrison's transcript; however, Mr. Morrison was one of the few witnesses who listened on the President's July 25 phone call and subsequently dealt with matters on the NSC related to U.S. military assistance to Ukraine. If you intend to call Lt. Col. Alexander Vindman, who worked for Mr. Morrison, to publicly testify, the minority requests Mr. Morrison sit on the same panel as Mr. Vindman.
6. **Nellie Ohr, former contractor for opposition research firm Fusion GPS.** In a 2018 interview with the House Judiciary and Oversight Committees, Ms. Ohr stated that, during her work with Fusion GPS that ultimately assisted in the production of the Steele Dossier—comprising false allegations against then-candidate Trump—Fusion GPS used information from sources in Ukraine, including Serhiy Leshchenko who recently lost his post from the Ukrainian parliament.¹¹ Given President Trump's documented belief that the Ukrainian government meddled in the 2016 election to oppose his candidacy, which forms the basis for a reasonable desire for Ukraine to investigate the circumstances surrounding the election and any potential Ukrainian involvement, Ms. Ohr is a prime fact witness who can assist Congress and the American public in better understanding the facts and circumstances surrounding Ukrainian involvement in the 2016 election.

¹¹ Transcribed Interview of Nellie Ohr, House Committee on the Judiciary and House Committee on Oversight and Government Reform, Wash., D.C., at 113-15 (Oct. 19, 2018).

7. **Ambassador Kurt Volker, former U.S. Special Representative for Ukraine Negotiations, to testify on the same panel as Ambassador William Taylor and Deputy Assistant Secretary of State George Kent on Wednesday, November 13, 2019.** The three committees conducted a transcribed interview of Ambassador Volker on October 2, 2019 and you subsequently released the transcript of the interview on November 5, 2019. Given Ambassador Volker's role as a primary interlocutor and trusted confidant of the Ukrainian government, as well as his firsthand knowledge of the circumstances surrounding Ukraine, to include discussions with Mayor Rudy Giuliani, Ambassador Gordon Sondland, Ambassador William Taylor, and others, the American people deserve to hear from Ambassador Volker in public on the same panel as Ambassador Taylor and Deputy Assistant Secretary of State Kent.
8. **The anonymous whistleblower whose secondhand complaint initiated the Democrats' "impeachment inquiry."** Because President Trump should be afforded an opportunity to confront his accusers, the anonymous whistleblower should testify. In addition, the Inspector General of the Intelligence Community reported that the whistleblower had a bias against President Trump and public reports indicate that the whistleblower worked closely with Vice President Biden.¹² Moreover, given the multiple discrepancies between the whistleblower's complaint and the closed-door testimony of the witnesses, it is imperative that the American people hear definitively how the whistleblower developed his or her information, and who else the whistleblower may have fed the information he or she had gathered and how that treatment of classified information may have led to the false narrative being perpetrated by the Democrats during this process.
9. **All individuals relied upon by the anonymous whistleblower in drafting his or her secondhand complaint.** In the whistleblower's complaint, the whistleblower suggests that he or she received accounts of President Trump's July 25 phone call with President Zelensky and associated information from "more than half a dozen" sources.¹³ These sources provided information that does not match the closed-door testimony from witnesses, particularly as it relates to whether the President actually conditioned a face-to-face visit or U.S. military assistance on opening an investigation into the President's political rivals. The whistleblower's complaint alleged that most, if not all, of these individuals had firsthand information related to the whistleblower's claims, making their testimony particularly relevant to the American people.

We expect that you will call each of the witnesses listed above to ensure that the Democrats' "impeachment inquiry" treats the President with fairness, as promised by Speaker Pelosi. Because the Democrats' resolution unfairly restricts Minority rights and because you

¹² Arden Farhi & Kathryn Watson, *Whistleblower had "prior working relationship" with current 2020 Democrat, source says*, CBS News, Oct. 9, 2019; Memorandum Opinion for the General Counsel Office of the Director of National Intelligence, 43 Op. Off. Legal Counsel at *4 (2019) (slip opinion).

¹³ See letter to Richard Burr, Chairman, S. Sel. Comm. on Intel., & Adam Schiff, Chairman, H. Perm. Sel. Comm. on Intel. (Aug. 12, 2019).

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have provided no information about which witnesses you may invite to testify at future hearings not yet scheduled, we reserve our right to request additional witnesses, if necessary, as you announce additional hearings. Your failure to fulfill Minority witness requests shall constitute evidence of your denial of fundamental fairness and due process.

Sincerely,

Devin Nunes
Ranking Member

cc: The Honorable Jim Jordan
Ranking Member
Committee on Oversight and Reform

The Honorable Michael T. McCaul
Ranking Member
Committee on Foreign Affairs

The Honorable Carolyn B. Maloney
Acting Chairwoman
Committee on Oversight and Reform

The Honorable Eliot Engel
Chairman
Committee on Foreign Affairs